

MINUTES
BOARD OF ADJUSTMENT
February 5, 2009

THOSE IN ATTENDANCE:

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| Gary Soule, Chairman | Jason Jaggi, Planner |
| Anne Martin | Kevin O'Keefe, City Attorney |
| Victor Cohen | Stephanie Karr, Acting City Attorney (took over for Kevin at the |
| Rick Bliss | conclusion of the 8137 Maryland Ave. appeal) |
| Mel Disney | |

Note: Ms. Jeannine A. Fassero, Court Reporter, was also in attendance at the meeting to transcribe the 8137 Maryland Avenue appeal portion of the meeting. A copy of Ms. Fassero's business card is attached in the event an individual wishes to obtain a copy of the full transcription.

Chairman Soule called the meeting to order at 5:00 p.m. He welcomed everyone to the meeting, introduced himself and asked that the other members of the Board introduce themselves.

Chairman Soule stated that the members of this Board are appointed by the Mayor and approved by the City's Board of Aldermen and serve without monetary compensation. He indicated that a full compliment of the Board consists of five members and that four members must vote in favor of a variance in order for a variance to be granted. He stated that the applicant must demonstrate practical hardship with regard to the property in order to justify the granting of a variance. He then advised that this is a duly advertised, duly noted meeting and that the proceedings are of record.

Chairman Soule noted that there is a full compliment (5 members) of the Board this evening and that four (4) votes in the affirmative are needed in order for a variance to be granted.

MINUTES

The minutes of the meeting of October 2, 2008 were presented for approval. The minutes were approved, after having been previously distributed to each member.

APPEAL FROM STEPHEN WOLFF, OWNER UNDER CONTRACT, FOR THE PROPERTY
AT 8137-41 MARYLAND AVENUE

Stephen Wolff, owner under contract and Gary Feder, attorney representing Stephen Wolff, were in attendance at the meeting.

Everyone wishing to speak this evening regarding the appeal was sworn in by the recording secretary.

Chairman Soule asked Jason Jaggi to provide an overview of the appeal.

Jason Jaggi began a PowerPoint presentation. Jason noted that this property is zoned C-1 Neighborhood Commercial District, which is the most restrictive of the commercial districts. Jason indicated that this is an unusual request as the appeal is to a specific use. Jason then read a portion of the C-1 language that pertains to "Permitted Uses" as follows:

"For properties within the C-1 Commercial District fronting on the north side of Maryland Avenue between Brentwood Boulevard and Forsyth Boulevard, all ground floor uses must be retail, personal care services, dry cleaning facilities, food and beverage service uses, consumer service offices (limited to financial institutions including banks, savings and loans, and credit unions, real estate offices, and travel agencies), or governmental offices. Additionally, such buildings and uses must incorporate street front windows creating interest at the street level. Furthermore, buildings should be sited in a manner so as to achieve a pedestrian friendly appearance and feel."

Jason indicated that some of the Board members had some questions as to why this appeal is being brought before them and at this level. Jason then read Section 405.600 of the Zoning Regulations, which provides the basis of an appeal where there is an alleged error by a City Official as follows:

"The Board shall hear and decide appeals in which it is alleged there is an error in any order, requirement, decision or determination made by the Building Official or an administrative official in the enforcement of the Zoning Ordinance, (that Chapter of the Municipal Code which governs land use patterns and developments within the City of Clayton) and/or the State of Missouri Enabling Act, Section 89.010 et seq. Revised Statutes of Missouri, as the same may be amended from time to time"

Jason noted that the tenants of the subject property include Joy Tribout Interiors and Parker's Table. Jason informed the members that the applicant, Stephen Wolff, desires to purchase the building. He stated that Joy Tribout would remain a tenant, but Parker's Table would vacate the premises. An aerial view of the subject properties was presented as well as site photos.

Chairman Soule asked the members if there were any questions for Jason.

None were received at this time.

Chairman Soule asked the City to present its exhibits with regard to this appeal.

City Attorney O'Keefe noted that the City had the following exhibits to offer into evidence:

- A. City's Code of Ordinances and Master Plan;
- B. Appeal filed on behalf of the applicant;
- C. Correspondence submitted by applicant;
- D. Staff Report;
- E. Material regarding the Clayton Triangle;
- F. Photos;
- G. Various pages of the Wolff Properties Web-site;
- H. Zoning Overlay District Map;
- I. Copy of the C-1 Zoning District language, with particular interest to 405.2850 (b)
- J. Copies of other portions of the Zoning Ordinance – Page 665 “Overlay District Regulations” (Kevin noted that this property is not in an Overlay District); definition of “Consumer Service Office”, Page 669 – 410.090 “Uses Permitted” in the CBD Core Overlay District, Page 675 – 410.150 “Uses Permitted” in the Downtown Overlay District.

Note that after each Exhibit was presented by Mr. O'Keefe, Chairman Soule asked Mr. Feder if he had any objection to such Exhibit and Mr. Feder indicated he had no objections. Therefore, Chairman Soule noted that all Exhibits presented by the City will be received and entered into evidence.

City Attorney O'Keefe noted that Mr. Feder has agreed to waive the necessity for certified copies of each Exhibit.

Gary Feder concurred.

Chairman Soule asked Mr. Feder to begin his presentation by introducing himself and asked if he had any exhibits to present.

Gary Feder indicated that he is an attorney with Husch Blackwell Sanders at 190 Carondelet Plaza and is representing Mr. Wolff. Mr. Feder stated that Mr. Wolff has had his offices in Clayton for 23 years. He stated that the Board of Adjustment was established by the State as a Quasi-Judicial Body and that roughly 99% of the appeals are variance requests; however, this request represents the other 1% and he does not know if this Board has ever considered this type of appeal. He noted that on January 7, 2009 a letter was received from the City Manager confirming that the proposed use of the property did not satisfy the City's Zoning Ordinance regulations. He stated that he believes the language contained in Section 405.2850 (Permitted Uses – C-1 Neighborhood Commercial District) is extremely important and that subsection (B) is the key to this hearing and the key to the decision. He stated that it is the Board's job to determine if staff made an error in its determination. He stated that he believes that the Board can allow an appeal or allow an appeal with conditions as mentioned in Staff's Report. He stated that Mr. Wolff has no right to seek further appeal until first appearing before this Board and that he hopes this ends this evening. He indicated that Mr. Wolff has the building under contract and that he must move forward with the purchase or withdraw by mid-month. He stated that it is undisputed that Wolff Properties is a permitted use anywhere in the C-1 District and that under

the general heading, this is a permitted use (as an office) and if not in this particular block, this would be a permitted use. He stated that staff does not question if Wolff Properties is a real estate business. He asked that the Board compare the language in subsection (B) to the language in 410.090, as the latter section is not applicable. He indicated that the list of items under "Consumer Service Offices" include financial institutions, real estate offices and travel agencies and questioned the need to appear before this Board. He stated that he is of the opinion that the language is clear and not ambiguous and makes the proposed real estate office a permitted use. He stated that the City has determined that the language is ambiguous and that he strenuously objects to staff's approach. Mr. Feder then asked that Mr. Wolff be given the opportunity to provide information to the Board.

Mr. Wolff indicated that he is President and CEO of Wolff Properties and that his current office is located at 225 S. Meramec, Suite 411. He stated his company is an investment and brokerage company which was founded in 1937 and that he took over the company in 1986. He informed the Board that he has served on Clayton's Chamber of Commerce and several charitable organizations. He indicated that his company has a staff of 10 and that 5 of those individuals are Missouri Licensed Brokers, one of whom is Cheryl Simon who is with him this evening, along with another employee. He stated that the subject building had been used by Mr. Gates as an office and that Wolff Properties agreed to purchase the property. He stated that Parker's Table's lease is terminating and Joy Tribout would remain as a tenant, along with Wolff Properties use of the property. He indicated that the building is in disrepair and that they are committed to make necessary repairs to the building. He stated that he was informed in December by City staff that Joy Tribout was a permitted use, but Wolff Properties was not. He stated that he subsequently met with the Planning Director, Mayor and City Manager and that he received a purchase extension to February 15th. He indicated that Tribout will be relocating out of Clayton on February 28th and as such, the property will be vacant by month's end. He stated that he is prepared to make a substantial investment in Clayton that will benefit the rest of the block.

Gary Feder indicated that he seeks a definition of a "Consumer Service Office" and that staff's report tries to define such by quoting a definition found in Random House Dictionary as (1) *a person or thing that consumes*; and, (2) *Economics. a person or organization that uses a commodity or service*. Mr. Feder asked why this is relevant. He stated that staff is trying to explain what a "real estate office" means and referred to Page 6, second full paragraph (of Staff's Report). He stated that Mr. Wolff has already testified that his company employs 10 employees and that his operation satisfies the definition of a typical real estate office. He stated that Mr. Wolff is willing to begin the sale of residential real estate. He stated that staff mentioned that his company is a "real estate management and investment office", but his company is an "investment, brokerage and management" company and as such, would attract people into his office. He stated that Mr. Wolff would be happy to add residential real estate to his services and would also place photographs of residential & commercial real estate that is for sale in the windows. He stated that there is nothing in the language in Exhibit I that would allow this to be denied. He asked what type of real estate office would be acceptable. He reminded the Board that they can place stipulations on approvals and asked that they approve this request with the condition that owners and buyers in the sale of residential and commercial real estate be represented. He stated that he would not find it acceptable if the Board agrees with staff's

determination and reminded the Board that Mr. Wolff could not proceed with the purchase of this property without approval.

Anne Martin asked approximately how many walk-in customers a day Mr. Wolff's office at 225 S. Meramec received.

Mr. Wolff indicated that answering that question is difficult, but he would guess that in 2008, they averaged about 60 customers per day; however, that number is lower now at about 30 per day.

Mel Disney asked the date the ordinances that were referred to this evening, particularly the ones distributed this evening, were adopted.

Jason Jaggi advised the members that the City adopted a comprehensive amendment to the Zoning Ordinance in November, 2001.

Kevin O'Keefe noted that Exhibit I was adopted April 27, 2004.

Mel Disney asked if the language was repeated.

Kevin O'Keefe replied "yes". He asked that Jason Jaggi approach the podium to provide additional testimony.

Kevin O'Keefe asked Jason to provide his name and occupation.

Jason Jaggi provided his name and indicated that he is the Planner for the City of Clayton.

Kevin O'Keefe asked how long he has been in this position.

Jason Jaggi indicated that he has worked for Clayton for over 4 years and prior to that, he was employed at St. Louis County for over 3 years.

Kevin O'Keefe asked Jason about his education.

Jason Jaggi indicated that he holds a Bachelor of Science Degree in Planning and a Master's Degree in Planning.

Kevin O'Keefe asked Jason if he was a member of AICP and what AICP stands for.

Jason Jaggi replied "yes" and that AICP stands for "American Institute of Certified Planners".

Kevin O'Keefe asked Jason how he interprets the term "real estate office".

Jason Jaggi indicated that he believes a typical real estate office employs several agents and is open to and serves the general public.

Kevin O’Keefe asked Jason that if, as a Planner, he is often called upon to make determinations with regard to zoning issues.

Jason Jaggi replied “yes”.

Kevin O’Keefe asked Jason if he looked at the pages from the Wolff Properties web-site.

Jason Jaggi replied “yes”.

Kevin O’Keefe asked if the other uses in that particular block are of a retail activity type.

Jason Jaggi replied “yes”.

Kevin O’Keefe asked Jason if that was taken into consideration.

Jason Jaggi replied “yes”. He explained that he examined land use patterns and that this block is of unique character containing restaurants, coffee shops, a salon...all of which are highly productive.

Kevin O’Keefe asked if pedestrian activity and tenants that support other area businesses is the rationale for the requirement for these types of specific uses.

Jason Jaggi replied “yes” as well as the use itself.

Gary Feder asked Jason if he defines permitted uses for others.

Jason Jaggi replied “yes”.

Gary Feder asked Jason if it is his opinion that Exhibit I is clear as it currently reads.

Jason Jaggi replied “yes”.

Gary Feder asked Jason if he is the staff member who is primarily responsible for determining zoning ordinance issues.

Jason Jaggi replied “yes”; however, he indicated that he is not the only one.

Gary Feder asked Jason why, then, was he not in attendance at the meeting that was earlier referred to.

Jason Jaggi reiterated that he is not the only staff member who is responsible for making such zoning determinations.

Gary Feder asked Jason if he was the author of the Staff Report.

Jason Jaggi replied “yes”.

Gary Feder reiterated that Mr. Wolff has several officers.

Jason Jaggi indicated that Mr. Wolff’s employment of brokers is newer information to him, but to his knowledge, the brokerage aspect as he knows it to be, is not the primary function of the company.

Gary Feder commented that Mr. Wolff earlier testified that he has 5 employees who are brokers.

Kevin O’Keefe objected to the line of questioning. He stated that the questioning is unfair and misleading.

Chairman Soule overruled Mr. O’Keefe’s objection.

Jason Jaggi indicated that he is unaware of the duties of the brokers as well as the number of transactions.

Gary Feder referred to the earlier statement that his office is open to the general public and asks if this new information does not clearly meet the criteria.

Jason Jaggi indicated that more information is needed before an answer can be provided.

Gary Feder asked Jason if he was aware of the letter he wrote to Catherine Powers stating that Mr. Wolff is prepared to offer residential properties.

Jason Jaggi replied “yes”. He added that offering residential properties gets them closer to a permitted use.

Gary Feder asked how they get even closer.

Kevin O’Keefe objected to the question.

Gary Feder withdrew the question. He asked how Koman Properties and Desco Group are covered/ permitted by the language of the Overlay District.

Jason Jaggi stated that he believes those businesses occupied the premises prior to the adoption of the Overlay Districts.

Rick Bliss noted that the proposed office was described as not fitting within the typical real estate office definition and asked staff for an example of a fitting office for this location; one that would be acceptable.

Jason Jaggi referred to Bakewell as they display residential properties, employ multiple listing agents and buy and sell real estate, both residential and commercial. He stated that activity is the key and believes it is clear what staff is attempting to maintain/achieve for that area.

Chairman Soule asked the legislative history of the C-1 District.

Jason Jaggi indicated that C-1 was not part of the City's original zoning ordinance; it went to the Board in 2001 and that the Business District Master Plan (BDMP) was adopted in the mid 90's. He stated that the overlay districts have a similar effect in the attempt to maintain certain areas as retail type presence.

Kevin O'Keefe asked if he could question Ms. Catherine Powers, Director of Planning.

Catherine Powers was sworn in by the recording secretary.

Gary Feder objected to questioning Catherine Powers as to relevance...he stated he believes the Ordinance is clear.

Chairman Soule overruled the objection.

Catherine Powers indicated that after the BDMC was completed in 1994, staff began a full review of the Zoning Ordinance. She indicated that this area received special consideration due to the retail nature of the area and staff wanted to be sure that this area not become an office environment. She stated it is the City's desire for this area to generate walk-in traffic, remain pedestrian uses that compliment each other and enhance the pedestrian experience.

Gary Feder asked Catherine to define the term "real estate office".

Catherine Powers indicated that it is a consumer service organization with face-to-face activity. She stated that staff is not anticipating offices with limited walk in business.

Gary Feder asked why there is no such reference in the Zoning Ordinance.

Catherine Powers stated that she sees consumer service offices as offices that generate walk in traffic. She understands that a lot of work is being conducted off-site.

Gary Feder commented that Catherine may have missed earlier testimony that Mr. Wolff has 5 licensed brokers who would oversee residential real estate. He asked Catherine if knowing that changes her opinion.

Catherine Powers stated that the use must generate walk-in traffic and that listing and sale of real estate must be the main use/primary purpose.

Gary Feder asked Catherine Powers why it is okay for Coldwell Banker but not okay for Mr. Wolff.

Kevin O’Keefe objected to the comment. He stated that Ms. Powers adequately described the Ordinance.

Chairman Soule overruled the objection.

Catherine Powers stated that it is her opinion that Coldwell Banker generates walk in traffic.

Gary Feder asked Catherine Powers if Desco Group is consistent with the language in the Zoning Ordinance.

Catherine Powers reiterated that Desco Group pre-dated the November, 2001 Zoning Ordinance

Gary Feder referred to a copy of a Commercial Occupancy Permit issued to Desco Group on October 5, 2005.

Catherine Powers stated that this permit may have been a 5 year renewal.

Gary Feder presented this Occupancy Permit as Applicant’s Exhibit 1.

Chairman Soule indicated Applicant’s Exhibit 1 is accepted and will be entered into the record.

Gary Feder again asked why Coldwell Banker is okay, but not Wolff Properties.

Catherine Powers indicated that management/investment firms, regardless of who they are, do not meet the criteria.

Gary Feder reiterated that Mr. Wolff has 5 brokers that equal the management and investment services.

Catherine Powers reiterated the need for walk in customer service.

Gary Feder indicated that at least two of those brokers will list and devote their time to the sale of residential properties and asks why this is not sufficient.

Catherine Powers indicated that the primary use of the property needs to be looked at.

Chairman Soule asked if City’s Exhibit G represents all of the pages of Wolff Properties’ website.

Jason Jaggi replied “no”. He stated that only the pages he believed to be relevant to the appeal were included in the Exhibit.

Chairman Soule asked Jason if he viewed the entire website.

Jason Jaggi replied “yes”.

Chairman Soule asked if he found anything in the website relating to the brokerage aspect of the business.

Jason Jaggi replied “no”, which furthered his opinion as to the non-qualification of this business at this location.

Chairman Soule asked the last time Jason looked at the website.

Jason Jaggi indicated that he looked at the website within the past week.

Chairman Soule asked about the prior use of the property by Clifton Gates.

Jason Jaggi indicated that he is not familiar with Mr. Gates’ occupancy of the property.

Anne Martin asked about Mr. Wolff’s testimony that his business generates about 60 customers per day and questioned the adequacy of parking for those customers.

Mr. Wolff stated that he does not believe parking will be a problem.

Ms. Harriet Gates, current property owner, who resides at 5855 Lindell Boulevard, St. Louis, MO 63112, addressed the Board by stating that this property was her husband’s pride and joy and that he had fallen ill, but still did not want to part with the property. She stated that her husband passed away in December, 2007 and that since then, she has received several offers for the purchase of the property, some of which were promising and some were not. She decided to accept Mr. Wolff’s offer and that when closing came near, they hit a snag with regard to the City’s decision that the use did not meet Code. She stated she is here this morning (afternoon) to ask the Board to grant the variance and that she believes his business will be successful.

Chairman Soule offered his condolences to Ms. Gates on the loss of her husband.

Mr. Frank Olendorff, 8128 Cornell Court, St. Louis, MO 63130, former University City City Manager, indicated that he is a frequent shopper at the triangle, that Clayton is wonderful and that he loves Parker’s Table. He asked that the variance be denied and that staff did an excellent job of explaining the meaning of the Ordinance.

Rick Bliss noted that this property is not part of the triangle and is therefore not subject to the regulations of that area.

Jason Jaggi commented that he wanted to clarify that there are no ordinances tied to the triangle.

Gary Feder advised the members that Parker’s Table is vacating the premises, Best of Everything is leaving and Joy Tribout is also leaving. He stated that now, the new standard is “primary use” and asks why someone does not have the right to see the Ordinance as it reads. He stated that if

the City does not like the Ordinance the way it reads, then it should be amended. He reiterated that Mr. Wolff's office is a real estate office. He stated that staff was unaware that Mr. Wolff employed 5 licensed real estate brokers. He stated that Mr. Wolff wants to be in this location and is entitled to the permit to occupy the premises and believes that Wolff Properties will be a successful entity for the property.

Kevin O'Keefe indicated that he has great respect for Mr. Feder, but that this case is not about Mr. Feder or Mr. Wolff, it is about the property and the requirement for consumer oriented activity. He stated that if a piece of that is taken out, it would detract from the other tenants that are consumer oriented. He stated that the City supports pedestrian activity and that the proposed use is not consistent with the Zoning Ordinance in that the primary activity of the company revolves around management and investments and that he believes that staff's interpretation of the language is accurate and it is their obligation to enforce the ordinances as written. He noted that Mr. Wolff had no explanation of how his company activity provides consumer services.

Being no further questions or comments, Chairman Soule made a motion to approve the appeal as presented with the condition that street-front windows to create interest and achieve a pedestrian friendly appearance be incorporated so as to allow the operation thereby reversing the City's decision. The motion was seconded by Victor Cohen.

Rick Bliss asked that Chairman Soule re-read his motion.

Chairman Soule re-read his motion.

Rick Bliss asked why the motion did not include a requirement that the company provide brokerage service and/or pictures in the windows depicting properties for sale.

Chairman Soule amended his previous motion as follows: To approve the appeal as presented with the following conditions: 1) That residential and commercial listings be included in the services provided by Wolff Properties; 2) That street-front windows to create interest and achieve a pedestrian friendly appearance be incorporated. Such motion reverses the City's decision and allows the proposed operation. The motion was seconded by Victor Cohen and received the following roll call vote: Ayes: Chairman Soule, Victor Cohen, Rick Bliss. Nays: Anne Martin and Mel Disney. Motion fails and the appeal is denied.

Chairman Soule thanked all parties involved with this case and called for a 5 minute break.

The meeting reconvened at 7:30 p.m.

APPEAL FROM JANE BROWN FOR THE PROPERTY AT 8006 SEMINOLE

Ms. Jane Brown, owner, was in attendance at the meeting.

Everyone wishing to speak with regard to this appeal was sworn in by the recording secretary.

Chairman Soule asked Jason Jaggi to provide an overview of the appeal.

Jason Jaggi began a PowerPoint presentation. He indicated that the property is zoned R-2, Single Family Dwelling District, and that the subject property requires a 6-foot side yard setback. He indicated that the as built addition is 5.6 feet from the side property line and as such, the owner is asking that the non-conforming status be removed.

An aerial photo of the area and site photos were presented.

Note: Kevin O'Keefe left the meeting; Stephanie Karr took over as Acting City Attorney.

Chairman Soule asked if the City had any exhibits to present with regard to this appeal.

Acting City Attorney Karr noted that the City had the following exhibits to offer into evidence:

- A. City's Code of Ordinances and Master Plan;
- B. Application for Zoning review;
- C. Zoning review denial letter;
- D. Appeal filed on behalf of the applicant;
- E. Supplement submitted by Ms. Brown;
- F. Drawings;
- G. Staff Report

Chairman Soule indicated that since there is no objection to the exhibits, they will be received and entered into the record.

Ms. Brown advised the Board that this house has been in her family since 1950, that she is a product of the Clayton School District and that she moved back into this home after the passing of her mother. She indicated that the addition was built slightly over the setback requirement, she has been through the Court system and that this is the last item that needs resolution before she can sell the property. She thanked the Board for their time.

Mel Disney asked how this issue affects the sale of the property.

Ms. Brown stated that she was told this setback violation could be an issue for a potential purchaser.

Mel Disney asked if there is a hardship issue with regard to the property's value.

Ms. Brown indicated that she did not know, as she has not discussed it with a realtor.

Rick Bliss asked why the court case did not allow for the non-conformity.

Stephanie Karr stated that the conformity issue is outside the jurisdiction of the municipal court.

Rick Bliss asked about title insurance.

Stephanie Karr stated that this could be a “cloud” on the title as it could not be repaired, enhanced or modified.

Rick Bliss asked the impact if this variance is denied.

Stephanie Karr stated that the non-conformity would continue and any permits would be denied.

Rick Bliss noted that this Board denied a very minimal variance request about 6 months ago and that they should not be persuaded by the minimal nature of the request.

Jason Jaggi reminded the members that this addition was built not according to the approved permit and that the owner has done what she needs to do. He stated that there could also be a disclosure issue here.

Rick Bliss asked if this is an attempt to clear a non-conforming entity in perpetuity.

Jason Jaggi replied “yes”; so as not to adversely impact future owners. He noted that the City requested an as-built survey which revealed this discrepancy and reiterated that this was dealt with by the City’s court system.

Rick Bliss commented that he would move to approve the variance.

Chairman Soule made a motion to approve the variance so as to grant a .4-foot variance from the side yard setback requirement of 6 feet to allow the addition to remain as-built. The variance was seconded by Victor Cohen and unanimously approved by the Board.

APPEAL FROM S.W. SCHEIPETER CONSTRUCTION ON BEHALF OF JAMES FEHR & ANNE GLOWINSKI FOR THE PROPERTY AT 7450 WELLINGTON WAY

Mr. Jeff Hyatt, project architect, was in attendance at the meeting.

Everyone wishing to speak with regard to this appeal was sworn in by the recording secretary.

Chairman Soule asked Jason Jaggi to provide an overview of the appeal.

Jason Jaggi began a PowerPoint presentation. He indicated that the property is zoned R-2, Single Family Dwelling District, and that the subject property requires a 30-foot side yard setback. He indicated that a 5.2-foot variance is being requested for the construction of one story lower level garage addition at the rear of the structure.

An aerial photo of the area and site photos were presented.

Chairman Soule asked if the City had any exhibits to present with regard to this appeal.

Acting City Attorney Karr noted that the City had the following exhibits to offer into evidence:

- A. City's Code of Ordinances and Master Plan;
- B. Application for Zoning review;
- C. Zoning review denial letter;
- D. Appeal;
- E. Drawings;
- F. Staff Report

Chairman Soule indicated that since there is no objection to the exhibits, they will be received and entered into the record.

Mr. Hyatt introduced himself as the project architect and stated that his office is located at 1229 Sweeping Oaks, St. Charles, MO 63304. He advised that the owners were not in attendance at the meeting.

Mr. Hyatt began a PowerPoint presentation. He indicated that the lot coverage, after the addition, is still below the maximum coverage allowed for this property. He stated that the deck structure will be replaced and a proper garage built as the existing garage is completely underutilized.

Mr. Hyatt provided a brief explanation of alternatives that were explored before seeking a variance. He stated that the majority of the structures on this block are non-conforming. He noted that placing a detached garage at the southwest corner of the property was rejected because it would not meet setback requirements from the main building and would exceed impervious coverage and that placing a detached garage at the southeast corner of the property was rejected due to garage access restrictions. He noted that the house is pushed close to the side property line and not centered on the lot. He stated that if they were to build a garage that met the rear yard setback requirements, the garage would not have ample space to walk around the vehicle to access the house. He stated that a detached garage at the far back of the property is a problem due to the 4' storm and sanitary line easement at the rear of the property.

Mel Disney asked if the new garage would be lower than the existing garage.

Mr. Hyatt stated that the current garage does not meet Code and that the new garage floor has to be lower than the finished level of the house.

Anne Martin asked the square footage of the home.

Mr. Hyatt indicated that he does not personally have that information; however, the County records show a total of 2,839 square feet. He stated that he would have to check that calculation.

Anne Martin asked the size of the new garage.

Mr. Hyatt replied “22 X 24”. He advised the members that the homeowners have talked with their neighbors about this proposal and none seemed to have a problem with it.

Anne Martin noted that Page 2 of the plan set shows a dimension of 24’-7” X 48’-5”.

Jason Jaggi indicated that the dimension includes the adjacent area as well as the garage.

Mr. Hyatt advised the members that the exact dimensions of the garage are 24’ X 22’-4”.

Anne Martin asked how long the east elevation wall will be.

Mr. Hyatt indicated that the east wall of the primary residence is 27’ in length, then there is a 1’-6” step back to the garage for a total wall length of 51’. He reiterated that this is not a continuous wall; there is a step back.

Mel Disney asked if there is anything to preclude a second story above this garage.

Stephanie Karr informed the members that a second story addition would also require a variance if built over the setback requirements.

Anne Martin commented that a 22 X 24 garage seems large and asked if it could be smaller. She asked if it could be shortened a bit by brining it in further from the south.

Mr. Hyatt indicated that to meet the setback requirements, the interior dimensions of the garage would be only 17 feet which is not practical.

Anne Martin asked if 24’ length is needed.

Mr. Hyatt stated that length is recommended.

Being no further questions or comments, Chairman Soule made a motion to approve a variance to allow the proposed garage to encroach 5.25’ into the 30 foot rear yard setback requirement. The motion was seconded by Rick Bliss and unanimously approved by the members.

Being no further business for the Board of Adjustment, this meeting adjourned at 8:28 p.m.

Recording Secretary

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